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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,894	04/27/2000	Robert Joseph Statz	AD6731-US-NA	1574

23906 7590 08/22/2002

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WILMINGTON, DE 19805

EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 08/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/558,894

Applicant(s)

STATZ, ROBERT JOSEPH

Examiner

David Buttner

Art Unit

1712

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 9.

Claim(s) rejected: 1-8.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. ☒ Other: See Continuation Sheet

DAVID J. BUTTNER
PRIMARY EXAMINER

David Buttner

Continuation of 2. NOTE: Proposed claim 7 inconsistently calls for 100% neutralization and later an "excess"(>100%). Proposed product by process claim 10 is a new issue and would be rejected even though the process might be allowable(MPEP2113).

Continuation of 10. Other: Claim 9 was considered allowable if written in independent form because requiring a post neutralization step of the blend to over 100% would not be obvious. Claim 10's product by process is met by Sullivan '855 because a post neutralization step is not required. Claim 10 (and claim 3) are met by Sullivan '855 because he suggests adding metal stearate (necessarily 100% neutralized) to an ionomer that is neutralized to about 10-100%. "About" 100% suggests amounts slightly above 100% (In re Ayers 69USPQ109). The declaration asserting Sullivan '855's exemplified compositions at 100% neutralization are inoperative, cannot be accorded great weight (MPEP 716.07). Furthermore, fatty acid salts are known to facilitate the flow of ionomers (Sullivan '760 col 4 line 28). The inclusion of fatty acid salt to improve the flow of the highly neutralized ionomer is the essence of applicant's invention. The declaration showing large amounts of fatty acid salt decreases scuff resistance does not defeat the rejection.. Firstly, the declaration does not use highly neutralized ionomer. Secondly, the decrease in scuff resistance would plague applicant's covers also. Apparently applicant chooses to accept the tradeoff between the expected improvement in processability and the expected worsened scuff. Finally, small amounts of fatty acid salt have not been shown to decrease scuff resistance. Even small amounts would improve processability to some degree (Sullivan '760 col 4 line 21)..